IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY PETITION NO. 690 OF 2005

Hardaram D. Patel ..Petitioner.
Vs.
Winsmith Engineers Pvt. Ltd. ..Respondents.

Mr.K.G.S.Tripathi for the Petitioner.
Mr.Pankaj Das for the Respondents.

CORAM : S.J. VAZIFDAR, J.
DATED : 23RD FEBRUARY, 2006

P.C. :

According to the Petitioner, the Company is indebted to him in the sum of Rs.1,09,148.10 in respect of goods sold and delivered under, and on the terms and conditions contained in an invoice bearing No.423 dated 30.9.2003.

2. The receipt of the goods is denied. It is true that the lorry receipt does not bear the signature of the Respondent Company, acknowledging receipt of the goods. However, it is important to note that there was a detailed statutory notice dated 11.7.2005 addressed by the Petitioner's Advocate to the Company. The same sets out all the facts regarding the sale and delivery of the said goods to the Company, including the details of the invoice number. There was no reply to the said notice. This is despite the fact that the petition was filed

almost three months later.

3. The receipt of the statutory notice is denied. The acknowledgment prima-facie indicates that the statutory notice was received by the Respondent Company.

4. In the circumstances, the following order is passed :

i) In the event of the Company paying to the Petitioners a sum of Rs.50,000/- on or before 20.4.2006, the Petition to stand dismissed.

ii) In case of failure on the part of the Company to deposit the aforesaid amount within time limit, the petition shall stand admitted and to be advertised in Free Press Journal, Navshakti and Maharashtra Government Gazette. The Petitioner to deposit an amount of Rs.2,000/- with Prothonotary and Senior Master of this Court within four weeks from the date of default.

All parties to act on a certified copy of this

order.